

Southern District of Alabama – Mobile Division

*In re Bender Shipbuilding and Repair Co.*, Case No. 09-12616, March 3, 2011.

- Law firm sought payment of administrative expenses under 11 U.S.C. § 503(b)(4), arguing that it made a “substantial contribution” to the effective reorganization of the Debtor by obtaining the dismissal of breach of fiduciary duty claims made by a creditor against the Debtor’s Directors and Officers.
- Holding: While the law firm obtained a good result for the Directors and Officers, the firm was unable to prove by a preponderance of the evidence that its contribution rose to the level of a “substantial contribution to the estate or reorganization.” The dismissal of a single claim against Directors and Officers was a direct benefit to the Directors and Officers but did not resolve any conflict between that creditor and the Debtor.

*Cello Energy, LLC, et al v. Parsons & Whitmore Enterprises Corp. (In re Cello Energy, LLC)*, Adv. Proc. No. 11-00031, April 7, 2011.

- The Debtor sought to obtain a preliminary injunction/TRO blocking creditor from executing on its judgment against a non-debtor and sought to Certify a Question regarding veil-piercing to the Alabama Supreme Court.
- Holding: The Debtors failed to show a substantial likelihood of success on the merits of their claim and failed to show irreparable harm, therefore they were not entitled to a preliminary injunction. The Court denied the Motion to Certify Question on the grounds that certification was unnecessary because Alabama courts follow generally accepted principles governing alter ego claims.

Northern District of Florida – Pensacola Division

*Venn v. GE Commercial Distribution Fin. Corp. (In re Leisure Tyme RV, Inc.)*, Adv. Proc. No. 10-03015, April 18, 2011.

- Creditor GE, who had financed Debtor’s RV inventory, filed Motion for Summary Judgment seeking to dismiss the Trustee’s avoidance complaint. GE had valid blanket lien on all of Debtor’s collateral.
- Holding: Regardless of GE’s secured, unsecured, or undersecured status, it was collecting its *own* collateral when it received transfers in the 90 days preceding filing because of its blanket lien. Because GE collected its own collateral, the Trustee was unable to meet the requirements of 11 U.S.C. § 547(b).